

THE STATE OF ARIZONA
CITIZENS CLEAN ELECTIONS COMMISSION

REPORTER'S FINAL APPROVED TRANSCRIPT OF PUBLIC MEETING

Phoenix, Arizona
November 30, 2006
9:30 a.m.

Reported By:

Angela Furniss Miller, RPR
Certified Reporter (AZ 50127)

Page 2

1 A PUBLIC MEETING, BEFORE THE CITIZENS CLEAN
 2 ELECTIONS COMMISSION, convened at 9:30 a.m. on November
 3 30, 2006, at the State of Arizona, Clean Elections
 4 Commission, 1616 W. Adams, Conference Room, Phoenix,
 5 Arizona, in the presence of the following Board members:
 6 Ms. Marcia Busching, Phoenix, Chairperson
 7 Mr. Gary Scaramazzo, Page
 8 Ms. Ermila Jolley, Yuma
 9 Mr. Carl Kunasek, Maricopa
 10 Ms. Royann J. Parker, Pima
 11 OTHERS PRESENT:
 12 Todd Lang, Executive Director
 13 Diana Varela, Assistant Attorney General
 14 Colleen McGee, Deputy Director
 15 Paula Ortiz, Executive Assistant
 16 Christina Murphy, Fiscal Services Manager
 17 Michael Becker, Voter Education Manager
 18 Daniel Ruiz II, Campaign Finance Manager
 19 Eric Peterson, Administrative Counsel
 20 Michael Brewer, Jan Brewer SOS
 21 Lauren Lowe, AZ Democratic Party
 22 Jeanne Winograd, Camelback PAC
 23 Eric Ehst, Clean Elections Institute
 24 Jim Barton, Torres Campaign
 25 Eric Kardesh, Off Madison Avenue
 Allison Miles, Off Madison Avenue
 Sahana Jayaraman, Off Madison Avenue
 Jacqueline Hahey, Off Madison Avenue
 Jenna Broadbent, Off Madison Avenue
 Brian Wendel, Off Madison Avenue
 Paul Ulan, Primary Consultant
 Barbara Klein, League of Women Voters
 Bobby Bush, BPC
 Lydia Guzman, Citizen

Page 3

1 P R O C E E D I N G
 2
 3 CHAIRPERSON BUSCHING: Good morning, everyone.
 4 I'm Marcia Busching. I'm Chairman of the Citizens Clean
 5 Elections Commission.
 6 It's Thursday, November 30th, 2006 at
 7 approximately 9:35 a.m. We're at 1616 West Adams, Suite
 8 110, Phoenix, Arizona 85007.
 9 I want to note that the Commission may vote to
 10 go into executive session, which will not be open to the
 11 public for any item listed on the agenda, for obtaining
 12 legal advice. All matters on the agenda may be
 13 discussed, considered, and are subject to action by the
 14 Commission.
 15 I've already called the meeting to order, so
 16 we'll move to Item II, approval of the following
 17 Commission meeting minutes: We have October 25th,
 18 October 30th reconvened meeting from October 25th,
 19 October 30th, November 2nd, and November 6th.
 20 I have passed along a couple of corrections.
 21 One on the October 25th meeting at page 18, line eight
 22 should reference Commissioner Jolley rather than me.
 23 And on October 30th the reconvened meeting, on page 82,
 24 lines one and two should refer to "small" rather than
 25 "smally".

Page 4

1 But other than those two, do people have any
 2 other additions or corrections?
 3 COMMISSIONER KUNASEK: Which one was it on page
 4 18?
 5 CHAIRPERSON BUSCHING: Line eight.
 6 COMMISSIONER KUNASEK: Eight. Okay.
 7 CHAIRPERSON BUSCHING: If not, the Chair will
 8 entertain a motion.
 9 COMMISSIONER SCARAMAZZO: So moved.
 10 COMMISSIONER KUNASEK: You want all the dates
 11 at once?
 12 CHAIRPERSON BUSCHING: Sure.
 13 COMMISSIONER KUNASEK: Madame Chair, I will
 14 move that the minutes of October 25th, October 30th,
 15 November 2nd, and November 6th be approved.
 16 CHAIRPERSON BUSCHING: As corrected?
 17 COMMISSIONER KUNASEK: As corrected and
 18 presented to us.
 19 CHAIRPERSON BUSCHING: Okay.
 20 COMMISSIONER SCARAMAZZO: Second.
 21 CHAIRPERSON BUSCHING: It's been moved by
 22 Commissioner Kunasek and seconded by Commissioner
 23 Scaramazzo that we approve the minutes listed on the
 24 agenda as amended.
 25 All in favor say, "aye."

Page 5

1 (Chorus of ayes.)
 2 CHAIRPERSON BUSCHING: Opposed, nay?
 3 Chair votes aye. Motion carries.
 4 Item III, Executive Director's report. Mr.
 5 Lang?
 6 MR. LANG: Thank you, Madame Chair. The big
 7 news is I'm attending the COGEL conference this weekend.
 8 Leaving this weekend, I'll getting back on Tuesday.
 9 I've attended in the past and always very helpful to get
 10 ideas from other state election enforcement agencies on
 11 how they do business and how we can continue to improve.
 12 And I will also be Chairing the roundtable discussion on
 13 public funding of elections. That's a more informal
 14 thing that they do during luncheons.
 15 Commissioner Parker and Chairman -- Chairperson
 16 Busching are also attending. So I look forward to
 17 splitting up the sessions with you so that we have good
 18 coverage on all the different sessions and get all that
 19 information.
 20 We're also excited to let you know that we've
 21 hired a new Administrative Assistant Level III, Rita
 22 Azcona who will be joining us next week. She worked for
 23 Homeland Security with the Governor's office and we're
 24 glad to have her.
 25 We've -- the candidates are all aware of the

Page 6

1 random audit draw and are now working with us on getting
2 that, working with the auditors also to get that started
3 and get that rolling.

4 And the great news is that Mr. Smith paid his
5 settlement, his final fine, and there has been a
6 satisfaction of judgment filed. So our role with that
7 case is now at an end. Diana is pleased to tell you
8 that her work is now over. And so we're pleased about
9 that.

10 We have a -- I know you're interested in what's
11 going on with the legislation and I've been talking to
12 folks and getting their advice. And we have some
13 legislative ideas. Two representatives have already on
14 their own initiative decided to have bills that address
15 Clean Elections' issues.

16 The first is by Representative McClure. As you
17 will recall, she ran a bill last year that would
18 equalize funding and she plans to run that one again.
19 It will have two provisions. One is, we won't equalize
20 -- if the bill were to pass, we wouldn't equalize until
21 the non-participating candidate not only went over the
22 limit but went over the limit plus whatever they spent
23 in seed money. So it is actually a true representation
24 of leveling the playing field.

25 And now this year she's interested in

Page 7

1 correcting the issue that came up and is now part of
2 litigation regarding the fact that when a
3 non-participating candidate has no primary opponent, we
4 don't deduct whatever expenditures occurred in the
5 primary from whatever money they raised for purposes of
6 matching funds in the general.

7 As you recall, as a result of that, for
8 instance, in the treasurer's race, Rano Singh received
9 money in the primary but really was more than what Mr.
10 Martin had because he refused to try to trigger matching
11 funds, so he was limited himself to what she had in the
12 general election period. So that was the problem.

13 So her bill will correct that so that the
14 purpose of the framers is met, which is there's still
15 protections so people can't just spend all the money in
16 the primary in hopes of not triggering matching funds.
17 It will be up to the limit that will count, but also
18 address the concerns raised by the folks who are on the
19 other side of that. And I certainly support that
20 legislation and I'm helping her with it in terms of
21 drafting.

22 And if you have suggestions, obviously I would
23 love to hear from you.

24 The other bill I just learned about is
25 Representative Reagan. Michelle Reagan is going to do a

Page 8

1 bill which will be much more comprehensive. And she's
2 soliciting input from all parties, foes of Clean
3 Elections, supporters of Clean Elections, and everyone
4 in between -- thank you. And she contacted me and asked
5 me to give her input.

6 So, what I sent to her was a list of
7 legislative changes that we suggested. And these were
8 much of what you saw in our annual report last year, the
9 annual report that you ultimately approved. But, in
10 particular, they're meant to address concerns raised or
11 issues regarding non-participating candidates in order
12 to make the law work more straightforward and more
13 simply.

14 The first is the one I already discussed, which
15 is the equal funding of candidates, that seed money
16 should count towards that matching funds. And also the
17 issue that I just mentioned with the non-participating
18 candidate who has no primary opposition.

19 We're also going to suggest that they not
20 require trigger reports when a non-participating
21 candidate has no participating opponent. Now that --
22 those trigger reports serve two purposes: One is the
23 matching funds, which is the most important; but the
24 other is an education purpose. So it's not without
25 merit, but we think ultimately it -- it frustrates the

Page 9

1 non-participating candidate so much and it's not needing
2 for matching funds when there's no participating
3 candidate in the race. We think that they should
4 consider removing that requirement when there will no
5 longer be a non-participating candidate. So once the
6 time to file is over.

7 We want to change the definitional matters and
8 we want to remove the provisions that were struck down
9 in court, including the fee on lobbyists and the way
10 Commissioners are appointed because the statutes don't
11 reflect the actual way they're appointed now because the
12 Commission on Appellant Court Appointments plays no
13 role.

14 And then we want to increase funding in all
15 races. And that's the number one feedback I heard from
16 statewide candidates is that they didn't feel they had
17 enough money. Particularly in the non-gubernatorial
18 races, the gubernatorial candidates felt that way as
19 well. So that is something we are going to recommend.

20 We have no specific proposals because they
21 wanted to hear ideas, so that's where we are.

22 On the other end, Michael Becker our voter
23 education manager is leading a group of folks who are
24 soliciting input from the public, from interested
25 parties like consultants and candidates, and anyone else

Page 10

1 in the public to give us ideas on how -- what other
2 statutory and rule changes they would like us to
3 consider.

4 So this is just the statutory changes. We're
5 also working on rule changes that a number of those came
6 up this cycle that we're certainly going to address like
7 the issues regarding the slate mailers, the issue
8 regarding the use of consultants, the volunteer work by
9 consultants, and when is an expenditure an expenditure.
10 We're going to provide clarity in all those areas; and,
11 of course, we'll do whatever else you ask us to do.

12 But, ultimately, the rules for the --
13 Commissioners, the rules will come to you for your
14 approval, you will tell us what changes you want us to
15 make, what other issues you want us to address, we'll
16 make those changes, and once your happy and satisfied
17 with them, we'll put them out for public comment. So,
18 that -- that's the agenda.

19 Unless you have any questions, that concludes
20 my report.

21 CHAIRPERSON BUSCHING: Are there questions of
22 Mr. Lang?

23 Mr. Lang, what's your timing on both statutory
24 and rule changes?

25 MR. LANG: Well, we're drafting rule changes

Page 11

1 now, Madame Chair, and we'll continue working on those.
2 And we hope to start working with the public within a
3 month, because we want to get them before the Commission
4 early in the year so that we've had all the public
5 comment, all your feedback, all your suggestions well
6 before the election cycle starts. That's our goal as
7 for the statutory changes.

8 I'm waiting to hear back from the folks in the
9 legislature, I'm listening to them and getting guidance
10 from them. But, obviously, we need to do that sooner
11 rather than later, because if you don't get a bill
12 drafted early, you know, before the legislative session
13 begins, it's a much tougher row to how. So that's also
14 a sooner rather than later matter.

15 I would say those our are primary focus for the
16 next -- before the next, you know -- before the end of
17 the year.

18 CHAIRPERSON BUSCHING: Okay. Commissioner
19 Kunasek?

20 COMMISSIONER KUNASEK: Todd, you might also
21 once you get something rolling, as far as info, find out
22 when the deadline for introducing a bill in either house
23 is. Because you can't let the deadline, which is like
24 the -- probably the third or fourth Friday of the
25 session. It used to be.

Page 12

1 MR. LANG: We hope to be well in -- in well
2 before that. But thank you for that. I'll check that.

3 CHAIRPERSON BUSCHING: Any other questions on
4 the Executive Director's report?

5 MS. WINOGRAD: Are you taking questions from
6 the public?

7 CHAIRPERSON BUSCHING: Mr. Lang, will you take
8 a question from the public?

9 MR. LANG: If I'm allowed to, sure.

10 MS. WINOGRAD: I'm Jeanne Winograd.

11 CHAIRPERSON BUSCHING: If you come forward and
12 state your name into the microphone, please.

13 MS. WINOGRAD: Where do I came forward, Madame
14 Chair?

15 CHAIRPERSON BUSCHING: That's fine.

16 MS. WINOGRAD: I'm Jeanne Winograd on behalf of
17 the Camelback PAC. I filed a complaint regarding use of
18 public documents to promote an incumbent, Secretary of
19 State Jan Brewer in this case.

20 There's a marketing principal of repeat
21 impressions and it's a fact. You see it on television,
22 you see it on radio where advertisers promote themselves
23 repeatedly. For example, there will be a 10-second ad,
24 a few moments later you see another 10-second ad, you
25 will see a magazine printout, a few minutes later --

Page 13

1 CHAIRPERSON BUSCHING: Ms. Winograd, I allowed
2 you the courtesy of asking questions. This is not the
3 time for a speech.

4 MS. WINOGRAD: Oh. I'm sorry. Please forgive
5 me.

6 MR. LANG: We have a public comment --

7 CHAIRPERSON BUSCHING: Yeah, we have a public
8 comment period.

9 MS. WINOGRAD: My only comment is I don't
10 believe it's fair --

11 CHAIRPERSON BUSCHING: No. Do you have a
12 question?

13 MS. WINOGRAD: Oh. Okay. Well, I'm wondering
14 if Mr. Lang will consider as a rule change use of the
15 public documents used to promote candidates and -- and
16 all of the things considered for an election, the
17 propositions --

18 CHAIRPERSON BUSCHING: Okay.

19 MS. WINOGRAD: I think repeat impressions --

20 CHAIRPERSON BUSCHING: All right.

21 MS. WINOGRAD: -- for any candidate is unfair.

22 CHAIRPERSON BUSCHING: I'll address the
23 question to Mr. Lang. And if you have comments, we do
24 have a public comment period so you can address this.

25 MS. WINOGRAD: I felt there needed to be a

Page 14

1 little background before I raised the question. Thank
2 you.

3 CHAIRPERSON BUSCHING: Thank you.

4 MR. LANG: That's not part of what we're
5 considering for a rule change because my view is -- and
6 I haven't talked to Diana -- but my view is that
7 requires a statutory change. Some states regulate
8 public officials in their use of public documents,
9 whether it's the Governor, Secretary of State, what have
10 you. Arizona doesn't do it in that fashion. I think
11 that's something for the legislature to do and not a
12 direct Clean Elections' issue.

13 CHAIRPERSON BUSCHING: Okay. Thank you.

14 Any other questions of Mr. Lang?

15 If not, we will move onto Item IV,
16 consideration and decision whether there's reason to
17 believe a violation occurred in the following
18 enforcement matters: A) MUR 06-0027, Israel Torres.

19 Mr. Lang?

20 MR. LANG: Thank you, Madame Chair. This was a
21 complaint filed on October 2nd by Phil Corbell regarding
22 campaign trips and campaign expenditures. And you have
23 before you Mr. Corbell's complaint along with Mr.
24 Torres' response filed by his counsel James Barton.

25 I would note that you also have affidavits

Page 15

1 attached to that response by Manny Tarango and Alice
2 Levy. But you should have the corrected affidavits.
3 Both of those affidavits got mangled in the copying
4 process, so make sure you have the correct affidavits.

5 Ms. Levy's is two pages and Mr. Tarango's is
6 also two pages. And the original document you have, the
7 back page of Mr. Tarango is something unrelated. So you
8 should have a second Tarango. There should be two in
9 there, two affidavits from each of them. They're
10 actually identical but the first ones are incorrect.

11 So I want to make sure you have the right
12 materials.

13 COMMISSIONER PARKER: Say again how we know
14 which one is the correct one.

15 MR. LANG: The first one is no good. Might as
16 well tear it out of each of them.

17 COMMISSIONER PARKER: Okay.

18 MR. LANG: In fact, that's something I could
19 have done for you. And then the second one is the
20 correct one.

21 The issue here is travel expenses. As you
22 know, candidates are required to report travel expenses
23 as campaign expenditures, but there's a big exception
24 and that's when the volunteers drive. Volunteers can do
25 the driving without getting reimbursed or counting as a

Page 16

1 campaign expenditure or in-kind contribution. In the
2 past when candidates have ridden with volunteers, we've
3 not required that to be reported.

4 In this case, Respondent used campaign
5 volunteers widely and was often driven by volunteers.
6 But when necessary, when he drove himself, he did make
7 the notations in the travel log and did declare the
8 reimbursements.

9 Although he -- although he -- he declared them
10 when he got the campaign funds rather than when he
11 actually incurred the expenditures. We're not talking
12 about a great deal of money, so ultimately I recommend
13 no reason to believe.

14 The other issue is Mr. Raul Garza rented a mini
15 bus on behalf of the campaign for \$40, just under \$40
16 and it was paid for by Garza. That was an in-kind
17 contribution, but because Mr. Garza didn't otherwise
18 give money to the campaign, there's no problem with it.

19 So even though it was an in-kind contribution,
20 it didn't exceed the contribution limit. So for that
21 reason, I recommend that the Commission find no reason
22 to believe.

23 We have another issue regarding Torres, but
24 that's on the agenda for later.

25 CHAIRPERSON BUSCHING: Okay. Are there

Page 17

1 questions of Mr. Lang?

2 Is there anyone from the public that wishes to
3 speak to this matter? Sir?

4 MR. BARTON: Madame Chair, Jim Barton from the
5 Torres Campaign. I don't have anything to add, but I
6 just wanted to offer myself. If the Commission has
7 questions, I can answer any questions.

8 CHAIRPERSON BUSCHING: Okay. Thank you.

9 COMMISSIONER SCARAMAZZO: Thank you.

10 CHAIRPERSON BUSCHING: Turn to comments by the
11 Commission or a motion.

12 Commissioner Jolley?

13 COMMISSIONER JOLLEY: Yes. In MUR No. 06-0027,
14 Israel Torres, participating candidate, Secretary of
15 State, that the Commission find there's no reason to
16 believe a violation of the Act has occurred.

17 CHAIRPERSON BUSCHING: Is there a second?

18 COMMISSIONER KUNASEK: Second.

19 CHAIRPERSON BUSCHING: It's been moved by
20 Commissioner Jolley and seconded by Commissioner Kunasek
21 that we find no reason to believe in the matter of MUR
22 06-0027.

23 All in favor say, "aye."

24 (Chorus of ayes.)

25 CHAIRPERSON BUSCHING: Opposed, nay?

Page 18

1 Chair votes aye. Motion carries.
 2 Moving to agenda Item IV B), MUR 06-0035, Debra
 3 Boehlke.
 4 Mr. Lang?
 5 MR. LANG: Thank you, Madame Chair. Again, we
 6 have a little issue with pagination. You should have a
 7 page two that has been inserted in your book right after
 8 the page one. It has a three-hole punch and should be
 9 able to put it right in there if it's not already there.
 10 You can tell page two because it says page two. But
 11 also because it has the box so you know you have the
 12 right one.
 13 It should be right in there.
 14 COMMISSIONER SCARAMAZZO: It's here.
 15 MR. LANG: Okay. All right. This is another
 16 complaint by Phil Corbell. This is against Debra
 17 Boehlke. If I mispronounce, please let me know. This
 18 is regarding travel expenditures again.
 19 In this case, Ms. Boehlke used petty cash to
 20 reimburse -- to reimburse herself for the travel
 21 expenses. And because they never rose to an amount
 22 above what you can use petty cash for, it was an
 23 appropriate use of petty cash. I think the total was
 24 \$156.
 25 So given that she properly used petty cash, the

Page 20

1 of \$346 for the mailing, that put -- and she had already
 2 given her personal limit total. Even though she was
 3 reimbursed later, the fact was this is a loan that put
 4 her over the limit in violation. It's also after the
 5 deadline when you can give personal money.
 6 So we recommend you find reason to believe in
 7 both cases.
 8 Ms. Boehlke has responded and you have the
 9 response. She's interested in settling this and I think
 10 this is a good case for settlement. But I do think the
 11 Commission should find reason to believe in both on
 12 these issues: First, spending primary money in the
 13 general; and, second, on spending personal money after
 14 the deadline.
 15 CHAIRPERSON BUSCHING: Thank you. Are there
 16 questions of Mr. Lang?
 17 Mr. Lang, do you -- if the Commission were to
 18 find reason to believe, are you going to do a further
 19 investigation then or are you just wanting to move to
 20 settlement?
 21 MR. LANG: Madame Chair, Commissioners, I don't
 22 think there needs to be an investigation in this case
 23 other than a confirmation of the information provided by
 24 the Respondent. So we'll look into it as we do in every
 25 case, but I don't think a lengthy investigation is

Page 19

1 fact that they don't appear on the CFR is okay; and,
 2 therefore, I recommend that you find no reason to
 3 believe. There's also an allegation that she used
 4 primary funds in the general election.
 5 In this case, we do have a problem. Although
 6 several of the allegations were not true that because
 7 she did use them in the primary, there was an
 8 expenditure of \$562.59 to a print center using primary
 9 funds for funds that were used exclusively in the
 10 general election.
 11 As you can see from the response that you have
 12 by Kim Demarchi. They acknowledge the violation. They
 13 assert that it was completely unintentional and I have
 14 no reason not to believe them. But I do think there's
 15 reason to believe there was a violation there because
 16 they spent \$562.59. Therefore, I recommend that you
 17 find reason to believe.
 18 And then finally there was an expenditure on
 19 September 11th for \$346 again for postage and an
 20 expenditure of another amount --
 21 COMMISSIONER PARKER: \$1,678.
 22 MR. LANG: Yeah, \$1,678 for the postcards.
 23 When you look at the campaign finance report it appears
 24 that they -- she gave personal monies in excess of the
 25 limit because of the fact that she did this expenditure

Page 21

1 required unless we find another problem. But rather
 2 we'll enter into settlement negotiations with them
 3 regarding how we should resolve it.
 4 CHAIRPERSON BUSCHING: Is there any benefit in
 5 deferring the reason to believe and entering into
 6 settlement negotiations and coming back with the
 7 settlement at the same time as the reason to believe, or
 8 do you think we should go forward with the reason to
 9 believe at this point?
 10 MR. LANG: Routinely we -- I think either way
 11 is fine, but routinely we do find a reason to believe
 12 and then enter into settlement negotiations from there.
 13 If this was a probably cause finding, a final finding, I
 14 might view it more strongly that putting it off would be
 15 appropriate. But if you want to, that will be fine.
 16 But normally we do a reason to believe and then work it
 17 out.
 18 COMMISSIONER PARKER: So you will come back to
 19 us with --
 20 MR. LANG: A proposed settlement.
 21 COMMISSIONER PARKER: -- what she --
 22 MR. LANG: Right.
 23 COMMISSIONER KUNASEK: And without proceeding
 24 and agree there is a reason to believe, how can you have
 25 a settlement?

Page 22

1 MR. LANG: We've done that in the past
2 actually, Commissioner Kunasek. Where the other side is
3 aware that there's a problem and they want to resolve it
4 quickly. We have brought both the reason to believe
5 recommendation and proposed settlement negotiation to
6 you, but generally we do it separately.

7 COMMISSIONER KUNASEK: But in that case you
8 proceeded on your own --

9 MR. LANG: To do the settlement --

10 COMMISSIONER KUNASEK: -- to do the reason to
11 believe and the settlement --

12 MR. LANG: Right. We assume you will agree
13 with us there is reason to believe and the settlement.
14 If you do find reason to believe, here's how we would
15 like to resolve it. They understand everything is
16 subject to the Commission's approval.

17 CHAIRPERSON BUSCHING: Okay. Are there -- is
18 there anyone from the public that wishes to speak to
19 this matter?

20 If not, I'll turn to discussion or a motion by
21 the Commission.

22 COMMISSIONER KUNASEK: Madame Chair, I would
23 move that in the matter of MUR 0035 -- 06-0035, we find
24 reason to believe that may have violation -- may have
25 been a violation.

Page 24

1 All in favor say, "aye."
2 (Chorus of ayes.)

3 CHAIRPERSON BUSCHING: Opposed, nay?
4 Chair votes aye. Motion carries.

5 Item IV C), MUR 06-0030, Russ Jones, Joseph
6 Melch-onnie (phonetic) --

7 COMMISSIONER JOLLEY: Melchionne.

8 CHAIRPERSON BUSCHING: -- Melchionne, Ken
9 Rosevear, Theresa Ulmer, Amanda Aguirre, and Lynne
10 Pancrazi.

11 Mr. Lang?

12 MR. LANG: Thank you, Madame Chair. Mr.
13 Kretzer filed a complaint against several candidates.
14 You see here, I guess six, regarding two issues: One is
15 the maintenance and erection of signs, campaign signs;
16 and second is the party mailers, you know, done by the
17 state party.

18 And you have with you several responses by all
19 the candidates in letter form. Most of them are
20 notarized and they all say basically the same thing,
21 which is in several cases regarding the signs -- the
22 concern there, of course, if there was a professional
23 crew putting up signs, then that would have been an
24 in-kind contribution and should have been reported. And
25 so that was the concern raised by Mr. Kretzer.

Page 23

1 MS. VARELA: I'm sorry, Madame Chair. If I
2 could just clarify. There are three alleged violations:
3 A, B, and C. And on A, for the failure to report travel
4 expenses, Mr. Lang has recommended a no reason to
5 believe.

6 So, Commissioner Kunasek, you may be
7 recommending a reason to believe in that. But I just
8 want to clarify that he's recommended a reason to
9 believe on B and C. So if you're recommending that you
10 -- your motion is that you follow his recommendation,
11 you might want to reword your motion.

12 COMMISSIONER KUNASEK: I thank you. Yes, I
13 would agree with you that I should reword.

14 I would reword it to the point where then we
15 take the Executive Director's advice and investigate the
16 two that required or looked like needed further
17 investigation.

18 COMMISSIONER SCARAMAZZO: B and C?

19 COMMISSIONER KUNASEK: B and C, yes.

20 CHAIRPERSON BUSCHING: Is there a second?

21 COMMISSIONER PARKER: I'll second.

22 CHAIRPERSON BUSCHING: It's been moved by
23 Commissioner Kunasek and seconded by Commissioner Parker
24 that we find reason to believe under headings B and C,
25 in MUR 06-0035, Debra Boehlke.

Page 25

1 But as you see in the responses, in the case of
2 several candidates, they did the signs themselves and
3 had no volunteers either helping or maintaining.
4 They've done this under oath. We could investigate
5 because this person said he saw this two-man crew doing
6 several different signs. But I take them at their word.
7 And I -- frankly, I believe them. And for that
8 reason --

9 And in the other cases they had volunteers
10 doing it who were not paid. And as you know, volunteer
11 work is permitted and not an in-kind contribution and
12 not inappropriate. In fact, helping candidates with
13 campaign signs is something campaigns have been doing
14 since the dawn of time.

15 So, in this case I recommend the Commission
16 find no reason to believe.

17 As to the party coordination with the slate
18 mailers -- with the slate mailers. Number one, in many
19 cases these were slate mailers and so they're not
20 considered a contribution. But even if they were not
21 under the slate mailer exception, which effects whether
22 or not we issue matching funds, the fact is they're
23 independent expenditures. The candidates in every case
24 had no knowledge or no cooperation and makes no
25 allegation of the same, except that they had their

Page 26

1 photos. Parties have photos of all the candidates on
 2 hand and what party wouldn't it.
 3 This is typical slate mailer and doesn't raise
 4 any concern with me or with staff. So we recommend that
 5 you find no reason to believe on both of the allegations
 6 contained in this complaint.
 7 I also ask you fix the type on the last
 8 paragraph of part four on page two. It says,
 9 "Respondents deny" -- it should not have an apostrophe.
 10 I hate when that happens. I just can't have that on the
 11 record.
 12 So I recommend that you find no reason to
 13 believe in this case.
 14 CHAIRPERSON BUSCHING: Thank you. Are there
 15 questions of Mr. Lang?
 16 Is there anyone from the public that wishes to
 17 speak to this matter?
 18 MR. ULAN: Paul Ulan --
 19 CHAIRPERSON BUSCHING: Sir?
 20 MR. ULAN: -- here on behalf of Amanda Aguirre,
 21 Lynne Pancrazi, and Theresa Ulmer to answer any
 22 questions. But I agree with the recommendation from the
 23 Director.
 24 CHAIRPERSON BUSCHING: Are there any questions
 25 of Mr. Aller [sic]?

Page 28

1 which is kind of nice. The person complained about both
 2 Democrats and Republicans.
 3 COMMISSIONER KUNASEK: Must have been Clean
 4 Elections.
 5 MR. LANG: This is a complaint raised by
 6 actually three folks, Jeanne Winograd you heard from
 7 earlier, Mr. John Kretzer, and Jim Barton who is also
 8 here as the representative of the Israel Torres
 9 Campaign, all against Secretary Brewer and her campaign
 10 regarding the use of the publicity pamphlet.
 11 And the bottom line -- and you have before you
 12 their complaint. There's three of them so there's
 13 Exhibit A, B, and C for the different complaints and
 14 then the reply is Exhibit D. And there's a lengthy
 15 analysis as to whether this is a contribution, whether
 16 it's an expenditure, whether it's expressed advocacy,
 17 and we've done this analysis before.
 18 This case is very similar to the complaints
 19 raised against the Governor and it also came up with
 20 other candidates as well. And the bottom line is,
 21 whether you think this is a great idea or a horrible
 22 thing, the bottom line is it simply isn't expressed
 23 advocacy and it is not a campaign contribution in any
 24 way, shape, or form.
 25 The fact that Secretary Brewer's name appears

Page 27

1 Or, I'm sorry, I didn't --
 2 MR. ULAN: Ulan. That's all right.
 3 CHAIRPERSON BUSCHING: Yes.
 4 If not, the Chair will entertain
 5 discussion or a motion.
 6 Commissioner Jolley?
 7 COMMISSIONER JOLLEY: In the matter under
 8 review, No. 06-0030, that the Commission find that
 9 there's no reason to believe that a violation of the Act
 10 has occurred.
 11 CHAIRPERSON BUSCHING: Is there a second?
 12 COMMISSIONER PARKER: I'll second.
 13 CHAIRPERSON BUSCHING: It's been moved by
 14 Commissioner Jolley and seconded by Commissioner Parker
 15 that we find no reason to believe that a violation
 16 occurred in the matter of MUR 06-0030.
 17 All in favor say, "aye."
 18 (Chorus of ayes.)
 19 CHAIRPERSON BUSCHING: Opposed, nay?
 20 Chair votes aye. Motion carries.
 21 Item IV D), MUR 06-0025, 06-0031, and 06-0039,
 22 Jan Brewer.
 23 Mr. Lang?
 24 MR. LANG: Thank you, Madame Chair. I note in
 25 the last matter that that was a bipartisan complaint,

Page 29

1 on the Voter Education Pamphlet is simply something
 2 that's permitted under state law and doesn't implicate
 3 the Clean Elections' Act. It simply doesn't rise to the
 4 level of expressed advocacy. There is clearly another
 5 reasonable purpose for her name being there, which is to
 6 advise the reader that she is the Secretary of State and
 7 her office provides the information required by statute.
 8 I can go into the analysis if you like, but I
 9 think this is a pretty clear-cut case. I think the
 10 concerns of those raised in the complaint are something
 11 to take up with the legislature. As I said before,
 12 that's something other states do regulate. Arizona
 13 doesn't. Many states don't. And it's not something for
 14 the Clean Elections Commission to regulate.
 15 CHAIRPERSON BUSCHING: Thank you. Any other
 16 questions?
 17 COMMISSIONER KUNASEK: Isn't this similar to
 18 the other complaint filed against the Governor having
 19 her name and picture in ads going out over the air?
 20 MR. LANG: Yeah, the complaint was about --
 21 MS. VARELA: Books.
 22 MR. LANG: -- books that she sent home.
 23 COMMISSIONER KUNASEK: With the kids?
 24 MR. LANG: With the kids with her letter in it
 25 and same issue.

Page 30

1 I think part of what annoyed at least Mr.
 2 Kretzer is the prior Voter Education Pamphlets didn't
 3 have her name so much. So this time he made the point
 4 of actually counting how many times her name appeared.
 5 But really it's the same thing as the Napolitano matter.
 6 COMMISSIONER KUNASEK: Having served in the
 7 legislature with Mr. Kretzer, I can understand his
 8 interests and diligence to count.
 9 CHAIRPERSON BUSCHING: Commissioner Jolley?
 10 COMMISSIONER JOLLEY: Yeah, I just have a
 11 comment. I think we reviewed this once before and had
 12 to do with the Voting Rights Act. And I made a comment
 13 then that perhaps the Voting Rights Act was violated
 14 when the television ads were placed basically in
 15 Maricopa County and Pima County reminding voters to
 16 bring ID, and the rest of the rural areas -- the other
 17 rural counties were not privy to those commercials.
 18 But that has no jurisdiction over the Citizens
 19 Clean Election. That is a Voting Rights Act violation.
 20 MR. LANG: Right. And in that case, the
 21 Respondents indicated that the booklets had gone to the
 22 rural counters as well, so there was some dispute there.
 23 COMMISSIONER JOLLEY: Okay.
 24 CHAIRPERSON BUSCHING: All right. Any other
 25 questions of Mr. Lang?

Page 32

1 that our elections are clean and fair. And forgive me
 2 if this sounds grandiose in reminding you of this,
 3 because I'm sure you all here as volunteers, you're
 4 giving it your best effort, but I think in this case you
 5 need to re-evaluate whatever rule is giving our
 6 Secretary of State such a presence.
 7 I would encourage you to do that. I hope you
 8 will do that. I ask that you do that. Because no other
 9 candidate has the opportunity to put their name in bold
 10 print on every single page. I think it would be a
 11 reasonable thing for our Secretary of State to have her
 12 name and phone number as a contact on the first page of
 13 that document. But she -- I have an MBA in marketing
 14 from George Washington University and I have a
 15 background in advertising and public relations. I can
 16 tell you, that putting your name in bold print on every
 17 single page of a public document reenforces over and
 18 over that you are that candidate.
 19 And, again, I'm Jeanne Winograd. Jeanne
 20 Winograd. Jeanne Winograd. Thank you.
 21 CHAIRPERSON BUSCHING: Are there any questions
 22 of Ms. Winograd?
 23 If not, is there anyone else from the public
 24 that wishes to speak to this matter?
 25 If not, we'll turn to comments or a motion by

Page 31

1 Is there anyone from the public that wishes to
 2 speak to this matter?
 3 MS. WINOGRAD: I do.
 4 CHAIRPERSON BUSCHING: Ma'am, if you come
 5 forward and state your name again.
 6 MS. WINOGRAD: Yes.
 7 CHAIRPERSON BUSCHING: And we will limit
 8 comments to five minutes.
 9 MS. WINOGRAD: Okay. I'm Jeanne Winograd again
 10 on behalf of Camelback PAC. I'm sure you know my name
 11 now because I've repeated it several times. And my
 12 question is that, you know, these rules, I've heard the
 13 expression of reason to believe, which I assume looks at
 14 the spirit of the law, the spirit of the rules, and
 15 perhaps goes towards the ethics of the issue.
 16 I personally believe -- and this is part of my
 17 question -- in asking lots of people their impression of
 18 Secretary of State Jan Brewer's name in bold print,
 19 larger than any print on every single page of that
 20 pamphlet, what they thought about it. Republicans,
 21 staunch Republicans, Democrats, middle-of-the-roads
 22 all said to me they thought it was unfair. And so I
 23 think, you know, it's fine to laugh about it. But I
 24 don't think that's your purpose here.
 25 It would seem that your purpose is to ensure

Page 33

1 the Commission.
 2 I guess I want to express the fact that when
 3 this matter came up earlier in the campaign with respect
 4 to the television ads, I expressed concern over the fact
 5 that it was a situation where I thought that the
 6 candidate was putting her name out where she didn't have
 7 to put her name out necessarily, and it was doing it in
 8 the context of being able to promote both the issue that
 9 she was addressing in the television commercial as well
 10 as her own persona.
 11 And one of the members of the public, as I
 12 recall, brought in a newspaper advertisement that
 13 indicated how in the past this same office had been
 14 promoted and this same issue had been promoted in other
 15 context and did not put the candidate in there and was
 16 very effective without the candidate's name and picture.
 17 And despite that, at that time I was
 18 unpersuaded that this was a situation where we could
 19 find reason to believe. I've moved closer to the fact
 20 that this may be a situation where there is reason to
 21 believe. I think that at some point an officeholder can
 22 cross the line past the fact that they're just doing
 23 their officeholder duties and are truly doing personal
 24 promotion for the fact that they're running for the
 25 office.

Page 34

1 Obviously, the Executive Director here has not
2 been convinced that this is one of those cases. But I
3 think it's certainly a situation that requires continued
4 scrutiny and acknowledgment that at some point an
5 officeholder can cross the line.

6 So, I would be interested to hear from the
7 other Commissioners as to whether they think this is one
8 of those cases or don't think that this is one of those
9 cases.

10 COMMISSIONER KUNASEK: Well, Madame Chair, I --
11 I agree with what you say. There has to be discretion.
12 However, I also am well aware of the old adage that
13 incumbency has its advantage. As an incumbent in any
14 office, you are free -- essentially free to do whatever
15 you must to do to promote the mission of your office.

16 I think in this particular case and the
17 discussions that we had earlier whereas it was pointed
18 out, and maybe it was Governor that broke the ice in
19 putting her picture in the pamphlet, I -- I think that,
20 yeah, it should be looked at. But I think you have to
21 be very careful and I don't believe it is something for
22 this Commission to look at.

23 I agree with Mr. Todd, it's in statute the
24 incumbent has the opportunity and at times the
25 requirement to inform the constituents of the -- the

Page 35

1 situation.

2 In this particular situation we have an
3 election time. We have a new law that requires you to
4 show proof with two picture IDs as I recall it was. If
5 that promotional effort had not been put forth, there
6 may have been many, many citizens show up to vote
7 without the necessary two forms of ID. So, I -- I kind
8 of am of the opinion that I'm glad those ads played,
9 because I think it afforded many people in this state
10 the opportunity to vote that otherwise may have shown up
11 and been denied the right to vote.

12 So, if it has to be looked at, I think the
13 legislature is the place to look at it and I think we
14 should move on.

15 CHAIRPERSON BUSCHING: Other discussion or a
16 motion?

17 Commissioner Parker?

18 COMMISSIONER PARKER: Madame Chairman, I move
19 in the matter of MUR 06-0025, 06-0031, and 06-0039 we
20 find no reason to believe.

21 COMMISSIONER SCARAMAZZO: I'll second that.

22 CHAIRPERSON BUSCHING: It's been moved by
23 Commissioner Parker and seconded by Commissioner
24 Scaramazzo that we find no reason to believe in MUR
25 06-0025, 06-0031, and 06-0039.

Page 36

1 All in favor say, "aye."
2 (Chorus of ayes.)

3 CHAIRPERSON BUSCHING: Opposed, nay?

4 The Chair will vote aye given the fact
5 that I failed to convince anyone.

6 COMMISSIONER KUNASEK: Sorry.

7 CHAIRPERSON BUSCHING: And the motion carries.
8 Moving to Agenda Item IV E), MUR 06-0029.
9 Mr. Lang?

10 MR. LANG: Thank you, Madame Chair. We have a
11 complaint by Michael Shelby against Jan Brewer regarding
12 a number of matters. The complaint is at Exhibit A and
13 her response is at Exhibit B.

14 The first issue is regarding the fair market
15 value of used signs, and second is inappropriate use of
16 campaign funds, and the third is using general election
17 funds -- I mean using primary election funds for the
18 general election.

19 Regarding the market value of signs. We've
20 been quite lenient with folks with how much they pay
21 their old campaigns for used signs, because determining
22 the retail value there is difficult. So if it is any
23 sort of reasonable amount, we've allowed it.

24 In this case though, as you can see from the
25 response, there was no reuse of signs. According to the

Page 37

1 Brewer Campaign, they had all new signs. So based on
2 their response, we recommend that you find no reason to
3 believe.

4 The response is sworn and I think it's
5 reliable. So, therefore, I recommend you find no reason
6 to believe regarding the failure to reimburse for used
7 signs.

8 The second regards two payments the candidate
9 made to a couple of Republican groups. One was the
10 Yavapai Republican Committee and the other was
11 Republican Women of Prescott. Our rules allow for
12 participating candidates to use money to pay the joints
13 civic organizations or political committees which is
14 exactly what she's doing here. It's pretty reasonable
15 for a Republican candidate to use of funds to join
16 groups around the state when they're a statewide
17 candidate.

18 So we found that his was a reasonable use of
19 funds and necessary for the campaign; therefore, we
20 recommended no reason to believe regarding that.

21 As to the computer expenditure. We do have a
22 limit on fixed assets of \$600. But in this case the
23 computer was less than that and the other matter was
24 actually a repair of a hard drive. So even though it
25 appeared that she spent over \$900 on her computer, in

Page 38

1 fact she did not. The \$378 was for a repair.

2 So regarding the inappropriate spending of
3 campaign funds, we found no reason to believe there was
4 a violation.

5 Finally, there's use of primary funds for the
6 general election. If you look at her response, you'll
7 see she goes into a lengthy breakdown of exactly how she
8 spent the money and what it is used for. And after
9 that, we are satisfied.

10 We could do an investigation to make sure a
11 significant portion was sent out, but we take her at her
12 word that most of the bumper stickers were distributed
13 before the primary and most of the other material were
14 distributed before the primary as well.

15 And, therefore, we recommend no reason to
16 believe on all three allegations.

17 CHAIRPERSON BUSCHING: And your last comments,
18 you were saying that you were referring to were
19 distributed before the general election but during the
20 primary election?

21 MR. LANG: Yeah, before -- during the primary,
22 before the general election.

23 CHAIRPERSON BUSCHING: Okay. Are there
24 questions of Mr. Lang?

25 Commissioner Jolley?

Page 39

1 COMMISSIONER JOLLEY: Yes. I have a question,
2 Todd.

3 What type of evaluation -- or how do you figure
4 the reuse of signs? I mean, it's not like they can sell
5 the signs or --

6 MR. LANG: Yeah, actually it wasn't --

7 COMMISSIONER JOLLEY: Isn't there a
8 depreciation?

9 MR. LANG: Sure. And people pay a small
10 fraction. Say the sign cost \$50. The next go around
11 they probably pay \$10 for it. They'll reimburse their
12 campaign for it. Because, as you said, there is
13 depreciation.

14 As long as people come up with a reasonable
15 value, we've taken them at their word on that. It's not
16 actually an issue here. She did not reuse signs. She
17 bought all new signs.

18 COMMISSIONER JOLLEY: Okay.

19 CHAIRPERSON BUSCHING: Other questions of Mr.
20 Lang?

21 Mr. Lang, I want a clarification. You're
22 headings B and C in this complaint refer to
23 inappropriate spending of campaign funds and use of
24 primary election funds for general election purposes.
25 And as I recall, this candidate is one that's been

Page 40

1 selected for an audit.

2 MR. LANG: That's right.

3 CHAIRPERSON BUSCHING: Now, if the audit should
4 turn up other inappropriate spending of campaign funds,
5 will that preclude us from addressing that issue with
6 respect to the audit if we were to find no reason to
7 believe here? Or is this only with respect to the two
8 items that the complainant has listed in their
9 complaint? Or is this something that we should defer
10 and address in the context of the audit? Or is this
11 something we should receive legal advice on?

12 MR. LANG: I certainly think, Madame Chair,
13 Commissioners, I think certainly think the latter is a
14 good idea. I'd be interested in what Ms. Varela has to
15 say.

16 But in my view, number one, double jeopardy
17 doesn't attach here. This isn't a criminal
18 investigation. So in my view, we have two things going
19 on here. One is these investigations are regarding
20 these particular allegations. And so should the audit
21 turn up other violations, we are completely free under
22 our rules and statutes to reopen or open those new
23 matters.

24 And, in fact, if the audit shows additional
25 information regarding these particular allegations, our

Page 41

1 rules specifically provide that we're allowed to reopen
2 those investigations should we get new information. So
3 in my view, you can proceed today based on that. But
4 I'd be, you know, obviously I'd defer to Ms. Varela.

5 CHAIRPERSON BUSCHING: Any -- what are the
6 wishes of the Commission?

7 COMMISSIONER KUNASEK: Well, I think that
8 Todd's last comment that any new information that's
9 found pertaining to either of these complaints, as long
10 as it's new information, that that can be reopened by
11 the Commission precludes the question I would have had
12 of Ms. Varela if we'd gone into executive session: Are
13 these excluded from further scrutiny? And apparently
14 they are not.

15 MR. LANG: In my view, they are not.

16 CHAIRPERSON BUSCHING: My -- well, my concern
17 is that if we were to vote that there's no reason to
18 believe here today, I think we could be doing a
19 disservice both to the candidate and to the public.
20 Particularly if this were to have occurred during an
21 election, insofar as we're sending a message to say, oh,
22 everything is okay in that regard. And then with the
23 fact that we now know there is an audit coming along,
24 the impression could be there that they're done with
25 this issue when, in fact, they're not really done with

Page 42

1 the issue.

2 Thus, it would tend to be my preference, unless
3 the candidate would say otherwise, that we defer on a
4 matter such as this that will be the subject of the
5 audit. But I certainly am open to further discussion on
6 the issue as well.

7 Commissioner Kunasek?

8 COMMISSIONER KUNASEK: I have a question. Are
9 any of the ones that we voted on already, any of the
10 candidates or campaigns we've already passed on today,
11 are any of those in this sample audit that the
12 Commission has selected to look at?

13 If they have been already, then are we going to
14 have to go back and reopen those or just concern
15 ourselves with new information that the random audit
16 might turn up?

17 COMMISSIONER JOLLEY: I can answer that for
18 you. Legislative District 24, the senate race,
19 participating candidates will be audited and we've voted
20 on that and that had to do with the --

21 COMMISSIONER KUNASEK: One of the things we had
22 already.

23 MR. LANG: Torres.

24 CHAIRPERSON BUSCHING: And the reason I didn't
25 raise this issue earlier is because it was my sense and

Page 43

1 impression that the issues that we were voting on
2 earlier would not be issues that would have anything to
3 do with the audit. So I'm raising it at this point
4 because two of the items in this complaint clearly have
5 to do with spending issues, which would be the subject
6 of the audit as opposed to other issues that would not
7 be the subject of the audit, so --

8 COMMISSIONER PARKER: What would the audit be
9 looking at differently than what we are looking at right
10 now in terms of permissibility?

11 MR. LANG: They will look at all the
12 information to make sure they are reported -- accurately
13 reported and permitted under the rules. So they will be
14 looking at these but will be looking at everything else
15 as well.

16 Let's say they -- they could rise -- they could
17 say the \$50 to the Yavapai Republican Committee, we
18 don't think that's appropriate and then we could do a
19 complaint based on that. But given that it's okay, we
20 would not go with the auditor's recommendation -- at
21 least I would -- and, of course, I would tell you the
22 recommendation if they have it, but I would not
23 recommend that we go with the recommendation. If they
24 found something new that they gave \$50 to the Yuma
25 Republican's Club, that one you can consider. We can

Page 44

1 consider anything.

2 COMMISSIONER PARKER: That's for beginners if
3 you look at it, you know.

4 MR. LANG: I don't think -- I think an audit
5 will make it clear. I still give the green light. A
6 representative of the campaign is here today, so they're
7 on notice we plan to still audit them. But I'm happy to
8 do whatever the Commission wishes.

9 COMMISSIONER PARKER: I guess my question is,
10 how would they dig any deeper than what you've already
11 dug to determine whether or not these are permissible?

12 MR. LANG: They might find something that we
13 didn't know about, some, you know, illegal thing.

14 COMMISSIONER PARKER: I mean on these.

15 MR. LANG: Yeah, they -- they could find
16 something we didn't know about.

17 CHAIRPERSON BUSCHING: Well, my question in
18 that regard, Mr. Lang, is that, isn't it not true that
19 the auditors actually look at checks --

20 MR. LANG: Absolutely.

21 CHAIRPERSON BUSCHING: -- and check registers
22 and here you're relying merely on affidavits --

23 MR. LANG: That's right.

24 CHAIRPERSON BUSCHING: -- as opposed to looking
25 at the actual documentation involved?

Page 45

1 MR. LANG: That's right. And if they found
2 that the check registers were incorrect or that these
3 expenditures weren't as represented to us, we would have
4 the ability to reopen it because of the new information.

5 But, you're right. They would reconsider
6 everything that's at issue here today, Madame Chair.
7 You're correct about that.

8 CHAIRPERSON BUSCHING: Ms. Varela, do you have
9 any advice if we were to go into executive session?

10 MS. VARELA: Sure. I can do that.

11 CHAIRPERSON BUSCHING: In that case, I'll make
12 a motion that we go into executive session.

13 COMMISSIONER JOLLEY: I'll second that.

14 CHAIRPERSON BUSCHING: It's been moved and
15 seconded that we go into executive session.

16 All in favor say, "aye."

17 (Chorus of ayes.)

18 CHAIRPERSON BUSCHING: Opposed, nay?

19 Chair votes aye. Motion carries.

20 Minutes of and discussions made in an executive
21 session are confidential pursuant to ARS Section
22 38-431.03(B) and shall not be released to anyone unless
23 specifically authorized by law.

24 Thank you.

25

Page 46

1
2 (Whereupon the public retires from the meeting
3 room.)
4
5 (Whereupon the Commission is in executive
6 session from 10:31 a.m. until 10:46 a.m.)
7
8 (Whereupon all members of the public are
9 present and the Commission resumes in general session.)
10
11 CHAIRPERSON BUSCHING: We'll be back in regular
12 session. I appreciate everyone's indulgence in the
13 executive session. The legal advice has been helpful.
14 We will continue on MUR 06-0029, Jan Brewer.
15 Is there anyone from the public that wishes to speak to
16 this matter?
17 Sir, come forward and state your name,
18 please.
19 MR. BREWER: Madame Chair, Commissioners, my
20 name is Michael Brewer and I'm here on behalf of the Jan
21 Brewer Campaign.
22 We would obviously agree with the
23 recommendation of the Executive Director to find no
24 reason to believe in this case. We'd also ask that you
25 just treat all the candidates equally today. There's at

Page 47

1 least seven other candidates who are also under an
2 audit, and this Commission has already voted on their
3 matters and found no reason to believe on those issues.
4 We would just ask that you would treat our campaign with
5 the same fairness.
6 And the response that was given to the
7 Commission was rather lengthy, included receipts. We
8 believe it was the most amount of information that we'd
9 be able to provide you and just ask that you would
10 proceed with this matter today. Thank you.
11 CHAIRPERSON BUSCHING: Thank you. Thank you
12 for your input.
13 Are there any questions of Mr. Brewer?
14 Is there anyone else from the public that
15 wishes to speak?
16 If not, I'll turn to the Commission for
17 discussion or a motion.
18 COMMISSIONER SCARAMAZZO: I'd move in MUR
19 06-0029 we find no reason to believe --
20 COMMISSIONER PARKER: I'll second.
21 COMMISSIONER SCARAMAZZO: -- a violation
22 occurred.
23 CHAIRPERSON BUSCHING: It's been moved by
24 Commissioner Scaramazzo and seconded by Commissioner
25 Parker that we find no reason to believe in MUR 06-0029.

Page 48

1 I'm going to vote in favor of the motion. I
2 just want to clarify a couple of things. One is that I
3 brought this whole issue up at this point because unlike
4 the other matters that have previously come before us, I
5 felt that this matter could be a matter that could be
6 addressed in the audit, whereas the other matters would
7 not be subject to audit-type issues.
8 And here I have become convinced that if there
9 should be something new that would turn up in the audit,
10 that we're not precluded from readdressing the issue and
11 I think that the candidate is aware of that as well. So
12 I am in favor of the motion.
13 Is there any other discussion?
14 If not, the Chair will call for the question,
15 all in favor say, "aye."
16 (Chorus of ayes.)
17 CHAIRPERSON BUSCHING: Opposed, nay?
18 Chair votes aye. Motion carries.
19 Item IV F), MUR 06-0037, Jan Brewer.
20 MR. LANG: Thank you, Madame Chair. This is
21 another complaint filed on the same day against the
22 Brewer Campaign. It makes three allegations. And what
23 you should have before you is a revised statement of
24 reasons.
25 Okay. I want to make sure you have the revised

Page 49

1 version.
2 COMMISSIONER KUNASEK: At the --
3 COMMISSIONER PARKER: Up at the top it says
4 "Revised." Are you in your group?
5 COMMISSIONER KUNASEK: No, I'm not in the
6 group. The book is too thick. I can't turn the pages.
7 MR. LANG: The changes are mostly
8 typographical, so it doesn't affect the substance.
9 There's really three -- three allegations in
10 the complaint. The first is regarding travel
11 expenditure, the next is illegal in-kind contribution,
12 and finally failure to properly report expenditures
13 regarding some signs.
14 Part A discusses the sign installation. And as
15 you can see in my analysis, what happened here is that
16 Jim Martin was paid to put up some signs, and
17 unfortunately they didn't break it down the way we now
18 require when you use subvendors. They have been alerted
19 to the problem and have corrected the problem so that
20 now the proper detail is shown.
21 And so because the proper detail is shown, we
22 recommend consistent with how we've done this in other
23 cases, that the Commission find no reason to believe
24 that 16-948(C) regarding detail has been violated.
25 The second -- I'll go to the third part. The

Page 50

1 third part is failure to report travel expenditures.
 2 And, again, this goes to our travel policy. But we have
 3 a sworn statement from the Respondent indicating that
 4 when she was on the official events she did not engage
 5 in any campaigning. And so, obviously that is a close
 6 line and -- but in this case her affidavit is quite
 7 clear.

8 So based on the fact that she did not engage in
 9 campaigning on those trips, she need not report them.
 10 And until we have information indicating otherwise, that
 11 she did have campaign activity on those stops, I
 12 recommend no reason to believe.

13 And finally, part B which I took out of order.
 14 This is regarding, again, the expenditure for the signs.
 15 The problem we have here is that the subvendor or the
 16 vendor, Mr. Martin, paid for the signs himself. They
 17 cost \$150.68 for the materials and wasn't reimbursed
 18 until four days later. The Campaign became aware of the
 19 issue which, of course, makes it in-kind contribution.
 20 The limit is \$120. So, technically, we have a violation
 21 here. They fixed it within four days, but we have a
 22 problem here because there's \$30.68.

23 It's the only violation we found regarding
 24 Brewer and so you see here I recommend a reason to
 25 believe that there is a violation.

Page 51

1 I have to say though that this is a very small
 2 amount, so I'd be quite comfortable if the Commission
 3 found no reason to believe given that because the
 4 settlement is going to be for a very small amount, they
 5 corrected the problem, they fixed it within four days
 6 when they became aware of the problem. So I think they
 7 understand the message and they addressed it themselves.
 8 And so I would be quite comfortable if the Commission
 9 declined to find reason to believe.

10 So, unless you have questions, these are my
 11 recommendations.

12 CHAIRPERSON BUSCHING: Are there questions of
 13 Mr. Lang?

14 Is there anyone from the public that wishes to
 15 speak to this matter?

16 If not, I'll turn to discussions or a motion by
 17 the Commission.

18 Commissioner Parker?

19 COMMISSIONER PARKER: Madame Chairman, I move
 20 that in the matter of MUR 06-0037, we find no reason to
 21 believe on Items A, B, and C.

22 CHAIRPERSON BUSCHING: Is there a second?

23 COMMISSIONER KUNASEK: Second.

24 CHAIRPERSON BUSCHING: It's been moved by
 25 Commissioner Parker and seconded by Commissioner Kunasek

Page 52

1 that we find no reason to believe in the matter of MUR
 2 06-0037. Further discussion?

3 If not, the Chair will call for the question,
 4 all in favor say, "aye."

5 (Chorus of ayes.)

6 CHAIRPERSON BUSCHING: Chair votes aye. Motion
 7 carries.

8 Item IV G), MUR 06-0038, Linda Gray.

9 MR. LANG: Thank you, Madame Chair. This issue
 10 addresses some of the questions raised by Commissioner
 11 Jolley regarding the market value of signs. You have a
 12 complaint by Martin Monroe that was filed on October
 13 27th that's in Exhibit A. And Exhibit B is her --
 14 Senator Gray's response, which was filed on November
 15 6th.

16 This is regarding the market value of signs.
 17 The problem, of course, here is that she was able to use
 18 her old signs at a fraction of the cost to her campaign
 19 to what they would cost a new candidate. So you see
 20 here the Respondent properly reported the value of the
 21 signs. She -- the question is, is it a reasonable
 22 value.

23 She reported them to be worth \$18.69. We find
 24 that that's a reasonable value. But, of course, that's
 25 something that could be hotly debated. But the bottom

Page 53

1 line is, you look at market value and new signs have no
 2 real market value. So we think any reasonable
 3 determination is reasonable.

4 But to be fair to the complainant here, there
 5 is an argument if she didn't have the signs and had to
 6 buy new ones, that to her these signs are worth the
 7 price of new signs. But while that is of reasonable
 8 argument, as a matter of policy, the Commission has
 9 consistently gone the other way. Used signs aren't
 10 worth that much. We aren't going to make you re-buy the
 11 signs, that's a waste of money. You already them, you
 12 shouldn't have to re-buy them, so you should have to pay
 13 some reasonable amount.

14 So in this case I recommend that the Commission
 15 find no reason to believe. If the Commission has
 16 concerns, I mean, of course, you can find reason to
 17 believe. If you decide to agree with me but you still
 18 have some concerns, perhaps you can address to me some
 19 rules you can suggest to me for some sort of guidance.

20 It's a difficult area but ultimately I find no
 21 reason to believe here.

22 CHAIRPERSON BUSCHING: Commissioner Parker?

23 COMMISSIONER PARKER: Todd, does the Commission
 24 have anywhere written down that says like a used yard
 25 sign is 50 cents, a used four-by-four is worth a dollar;

Page 54

1 anything like that?

2 MR. LANG: We -- we don't, Commissioner Parker.

3 What we have is the rule there that you see, 702.01.

4 And basically what it says is you have to pay fair

5 market value.

6 In one case we had a candidate who tried to

7 sell a sign on Ebay and determine --

8 COMMISSIONER KUNASEK: Did he lose?

9 MR. LANG: It didn't sell. It didn't sell.

10 And so he claimed the market value was zero. We said,

11 no, there is some market value to these signs. So he

12 amended his reports and addressed the problem.

13 So the issue has come up. We do need to give

14 some guidance, but it is difficult because of the nature

15 of the situation.

16 CHAIRPERSON BUSCHING: Other questions of Mr.

17 Lang?

18 Is there anyone from the public that wishes to

19 speak to that matter?

20 Sir, if you come forward and state your name,

21 please. And limit your comments to five minutes.

22 MR. MONROE: Good morning. I'm Martin Monroe,

23 the complainant. I also have some pictures here if

24 you're interested showing the signs in District 10. We

25 have numerous more pictures as well as witnesses that

Page 56

1 I don't find this to be a fair playing field.

2 This amounted to huge savings of thousands of dollars to

3 use towards her direct mail campaign in the primary

4 period, which clearly eliminated the level playing field

5 for her opponent.

6 And this also allowed her to spend the bulk of

7 her general funds on solely on her direct mailers; six

8 to my two. Which out numbered her opponent

9 significantly, like her signs, by a ratio of three to

10 one.

11 This represents a violation of Clean Elections'

12 rules as well as the concept of the Clean Elections'

13 funding. Martin Monroe would have had to spend more

14 than 50 percent of his funding in order to level the

15 playing field in signs alone.

16 One four-by-eight sign costs over \$40. And,

17 you know, it doesn't matter if it's 10 years old, it has

18 the same purpose. It has your name on it, you stick

19 them out. And this is why I could only afford

20 four-by-four yard signs, which mysteriously kept

21 disappearing as fast as I put them up, forcing me to

22 reorder more signs to replace the stolen ones to the

23 tune of \$1,100 which could have been another direct mail

24 piece for me. Thus further depriving me of funds to use

25 on my direct mailer campaign.

Page 55

1 will testify that by June 30th the entire District 10,

2 which is a huge area, was blanketed with Linda Gray

3 signs. My signs were not up until the first week of

4 September.

5 MR. LANG: Want me to pass them around?

6 MR. MONROE: Thank you.

7 I respectfully disagree with the

8 Director's view that Linda Gray has not violated Clean

9 Elections' rules of the financial amount that Linda Gray

10 reimbursed the Clean Election fund of the fair market

11 value of old signs of the previous election was only a

12 mere \$18.69. Boy, I wish I could have gotten a great

13 deal like that. 23 four-by-eight, 17 four-by-four

14 signs, and 26 yard signs for a mere \$18.69. That would

15 have gotten me five stakes and not one sign to put on

16 them.

17 And then to top them off, she underreported the

18 amount of signs she had up because there were at least

19 three times that amount that she reported.

20 This Commission should ask to review Linda

21 Gray's invoices for her signs made this cycle in order

22 to determine the real fair market value of those signs.

23 I paid \$45. She's claiming a dollar for hers. That

24 allows her to have numerous more signs than me that were

25 way out three months more than mine.

Page 57

1 Another possible violation that the Commission

2 should review is the \$13,255.83 paid to her consultant,

3 which was not itemized according to Clean Elections'

4 rules. If this is the Clean Elections Commission idea

5 of a fair and level playing, then Martin James Monroe

6 will not be a participating candidate in 2008 or why I

7 failed to respond to numerous questionnaires of

8 universities throughout the United States asking me how

9 the Clean Elections went for me as a candidate.

10 Thank you for allowing me this opportunity to

11 speak to the Commission today regarding my experience as

12 a participating candidate.

13 CHAIRPERSON BUSCHING: Thank you, sir. Are

14 there questions of Mr. Monroe?

15 If not, is there anyone else from the public

16 that wishes to speak to this matter?

17 If not, we'll turn to Mr. Lang.

18 MR. LANG: I think Mr. Monroe -- I don't agree

19 with his conclusions, but I think he raises some valid

20 concerns and it's something we can address in rule

21 making. But I don't think our rules preclude Ms. Gray

22 from doing what she did. But it doesn't mean it's not

23 something we can look into for possible policy changes

24 down the road.

25 CHAIRPERSON BUSCHING: Okay. Is there

Page 58

1 discussion or a motion by the Commission?
 2 Commissioner Jolley?
 3 COMMISSIONER JOLLEY: Yes. I just have a
 4 question.
 5 I notice on some of the signs they have the
 6 year 2002 when the candidate ran previously. So, how
 7 would the Commission be aware -- well, I guess if she
 8 were elected -- if they never put a year on that? I
 9 guess you can reuse the signs, is that correct, and you
 10 don't have to put an election year or what years?
 11 COMMISSIONER KUNASEK: I think the law -- I
 12 don't know if the law requires you put the year on it,
 13 but they do require disclosure on there as to how the
 14 sign is paid for is my understanding. But I don't
 15 recall. And I don't know if you have to put the year on
 16 it or not.
 17 COMMISSIONER JOLLEY: Okay.
 18 MR. LANG: What you do have to have on there is
 19 the name of your committee and I think that was the name
 20 of her committee back in 2002 and that's why it's on
 21 there.
 22 COMMISSIONER KUNASEK: They did put the 2002 on
 23 a couple of them there.
 24 MR. LANG: That was her old sign.
 25 COMMISSIONER KUNASEK: And then she couldn't

Page 59

1 say this is my new sign.
 2 MR. LANG: But the year is not required as part
 3 of the disclosure.
 4 COMMISSIONER JOLLEY: Okay.
 5 CHAIRPERSON BUSCHING: Other discussion or a
 6 motion?
 7 COMMISSIONER KUNASEK: Madame Chair, I would
 8 move that in the matter of MUR 06-0038, we accept the
 9 recommendation of the Executive Director and find no
 10 reason to believe a violation occurred.
 11 CHAIRPERSON BUSCHING: Is there a second?
 12 COMMISSIONER PARKER: I'll second.
 13 CHAIRPERSON BUSCHING: It's been moved by
 14 Commissioner Kunasek and seconded by Commissioner Parker
 15 that we find no reason to believe a violation occurred
 16 in the matter of MUR 06-0038. Further discussion?
 17 COMMISSIONER SCARAMAZZO: Yeah, I do. I do
 18 think there's some valid points that have been made by
 19 Mr. Monroe here that kind of troubles me. And I do want
 20 to see this looked at as far as our rules, because I
 21 think that does give a very unfair advantage.
 22 We talked about the rules of incumbency and the
 23 value of incumbency, but I think that that really does
 24 slight it. And somebody can save a whole lot of money
 25 that somebody else has to -- has to fork out for a first

Page 60

1 go around. And I think that does put, you know, a
 2 challenger at a disadvantage. I would like to look at
 3 that.
 4 CHAIRPERSON BUSCHING: I agree with you.
 5 COMMISSIONER KUNASEK: Madame Chair, I totally
 6 agree. I think it creates a whole -- another
 7 opportunity that people might not agree with. For
 8 example, if I were one of these people that had the old
 9 signs left, I would sell them to myself for the market
 10 value of 68 cents or whatever you came up with, whatever
 11 it -- it was. But then come around time to campaign
 12 again, the campaign would have to buy them for myself,
 13 but for a new price.
 14 MR. LANG: He's always thinking.
 15 COMMISSIONER KUNASEK: Well, I mean, those are
 16 the kind of games you will see ending up being played.
 17 COMMISSIONER SCARAMAZZO: Right. I understand.
 18 CHAIRPERSON BUSCHING: And I'm inclined to go
 19 along with the motion today because of the fact that it
 20 is in compliance with the rule. There's no evidence
 21 that we've received that's demonstrated that the price
 22 paid was not the fair market value.
 23 I think the evidence that we've received is
 24 just the issue that it seems unfair under the
 25 circumstances, and so I think that the Executive

Page 61

1 Director's recommendation is correct and I'm in support
 2 of the motion.
 3 So, with that, if there's no other discussion
 4 I'll call for the question. All in favor of finding no
 5 reason to believe, say "aye."
 6 (Chorus of ayes.)
 7 CHAIRPERSON BUSCHING: Opposed, nay?
 8 Chair votes aye. Motion carries.
 9 Moving to Agenda Item V, discussion and
 10 possible action on MUR 06-0021, 06-0026, Israel Torres,
 11 probable cause recommendation.
 12 Mr. Lang?
 13 MR. LANG: Thank you, Madame Chair. You have a
 14 lengthy analysis here regarding use of -- proper use of
 15 funds, the fact that campaign consultants paid for
 16 things and then were reimbursed later which resulted in
 17 a large number of small violations, and then you see my
 18 recommended penalty and repayment order.
 19 But what I would suggest is that we table this
 20 matter until December because we've reached a settlement
 21 in this case. And I think because under the open
 22 meeting laws, the Commission can't consider the
 23 settlement today. I'd like to them to all be considered
 24 at once because this is that next step, this is the
 25 final order, the probable cause recommendation. We

Page 62

1 already did reason to believe, and because of that and
 2 in favor of the Torres Campaign, I recommend we table
 3 this matter until December.
 4 CHAIRPERSON BUSCHING: All right.
 5 COMMISSIONER SCARAMAZZO: I would move to table
 6 this item.
 7 COMMISSIONER KUNASEK: Second.
 8 CHAIRPERSON BUSCHING: It's been moved by
 9 Commissioner Scaramazzo and seconded by Commissioner
 10 Kunasek that we table this item.
 11 I perhaps should ask, is there anyone from the
 12 public that wishes to --
 13 COMMISSIONER SCARAMAZZO: You can't do that on
 14 a table.
 15 CHAIRPERSON BUSCHING: Oh. Sorry. Never mind.
 16 COMMISSIONER SCARAMAZZO: Sorry.
 17 CHAIRPERSON BUSCHING: Thank you for prompting
 18 me.
 19 All in favor say, "aye."
 20 (Chorus of ayes.)
 21 CHAIRPERSON BUSCHING: Opposed, nay?
 22 Chair votes aye. Motion carries.
 23 Item VI, discussion and possible action on
 24 conciliation agreement for Lisa Lovallo. Mr. Lang?
 25 MR. LANG: You will notice Commissioners, there

Page 63

1 is no conciliation agreement for Lisa Lovallo and that
 2 is because although Commissioner Parker and Eric
 3 Peterson our administrative counsel have been working
 4 hard on settling, we're not quite there. We are very
 5 close. We reached an agreement on a number of the
 6 issues. We've sent a copy of our proposal to the -- to
 7 Ms. Lovallo's attorney, but we haven't received final
 8 approval of that. I anticipate we will have a
 9 settlement within the next week and I apologize it's not
 10 here today but will certainly be on the agenda for
 11 December.
 12 CHAIRPERSON BUSCHING: And so --
 13 MR. LANG: So I'd ask that -- there's nothing
 14 for you to consider.
 15 COMMISSIONER SCARAMAZZO: You just want to
 16 ignore it?
 17 Very good. Okay.
 18 COMMISSIONER KUNASEK: Move on.
 19 CHAIRPERSON BUSCHING: We'll move on. Item
 20 VII, consideration and possible ratification of issuance
 21 of matching funds for reported independent expenditures
 22 to Laura Knaperek for Democratic Party mailer.
 23 Mr. Lang?
 24 MR. LANG: Thank you, Madame Chair.
 25 Commissioners, you have before you a copy of the

Page 64

1 two-sided card that was distributed right before the
 2 election in two districts, both Legislature District 17
 3 and Legislature District 18. I want to thank the
 4 Democratic Party for their cooperation in providing the
 5 value, the money spent, and the distribution areas.
 6 Because under the rules, they technically didn't have to
 7 report until that night, they were not required to give
 8 us that information. So we appreciate that.
 9 As you can see here, this is a pretty strong
 10 hit piece on both Russell Pierce and Laura Knaperek
 11 tying them to a white supremacist Website and some other
 12 nefarious folks.
 13 We made a determination that two-thirds of this
 14 piece was a hit on Laura Knaperek. And because only
 15 two-thirds of it was distributed in her district, we
 16 only gave her two-thirds of that two-thirds' amount. We
 17 did not award her the other third because it was
 18 distributed in District 18 and, you know, under our
 19 rules for expressed advocacy, it has to be directed at
 20 the electorate and thought it would only be fair for the
 21 person that awarded in her district.
 22 So we awarded matching funds in the total cost
 23 of \$1,756. And awarded \$1,566.66 for the hit piece and
 24 we'd like you to approve that.
 25 Because of the time constraints, we couldn't

Page 65

1 get a meeting in time. And because it was a relatively
 2 low amount, we went ahead and issued the matching funds
 3 and we're asking you to ratify that. Because otherwise
 4 she'd receive no money and this was a clear hit piece.
 5 CHAIRPERSON BUSCHING: Thank you.
 6 Are there questions of Mr. Lang?
 7 Is there anyone from the public that wishes to
 8 speak to this matter?
 9 If not, the Chair will entertain discussion or
 10 a motion.
 11 COMMISSIONER KUNASEK: I'd move that we approve
 12 the amount of \$1,566.66 that was already spent, that it
 13 was done legally, I move that it's appropriate.
 14 (Whereupon Commissioner Jolley raises her
 15 hand.)
 16 COMMISSIONER SCARAMAZZO: Second.
 17 CHAIRPERSON BUSCHING: It's been moved by --
 18 COMMISSIONER SCARAMAZZO: Oh. Go ahead.
 19 Commissioner Jolley seconded it.
 20 CHAIRPERSON BUSCHING: It's been moved by
 21 Commissioner Kunasek and seconded by Commissioner Jolley
 22 that we approve -- or we ratify the issuance of matching
 23 funds for the, "Who is supporting Russell Pierce?
 24 piece" in the amount of \$1,566.66.
 25 All in favor say, "aye."

Page 66

1 (Chorus of ayes.)
 2 CHAIRPERSON BUSCHING: Opposed, nay?
 3 Chair votes aye. Motion carries.
 4 We will stand in momentary recess.
 5
 6 (Whereupon a recess is taken from 11:11 a.m.
 7 until 11:14 a.m.)
 8
 9 CHAIRPERSON BUSCHING: All right. We'll go
 10 back into session.
 11 All right. We're back into session.
 12 Item VIII -- or VII -- VIII, presentation from
 13 Off Madison Ave. regarding the recap on the 2006
 14 education plan.
 15 Mr. Wendel?
 16 MR. WENDEL: Good morning, Madame Chair and
 17 Commissioners. My name Brian Wendel for those of you
 18 that I may not have had the pleasure of meeting. I'm
 19 actually the account director of Off Madison Ave. for
 20 the Clean Election campaign.
 21 I'll actually introduce all of my cohorts who
 22 actually work on the campaign. Many of you are familiar
 23 with them by name as you see them routinely on e-mail.
 24 But to my right is Jenna Broadbent who oversees the
 25 advertising online media for the Clean Elections'

Page 68

1 the agency, there was a different regime here at the
 2 Commission and very fortunate to actually work very
 3 closely with Todd and Mike Becker over the past year and
 4 a half and also with Chair Busching.
 5 Our target audiences for our campaign which
 6 really kind of mirrored down to Arizona voters, minority
 7 voters, and then potential candidates. And what we're
 8 going to outline to you today has really been our
 9 innovated marketing campaign which hinges on both paid
 10 and earned media and outlining public relations
 11 advertising in TV, radio prints, and online.
 12 So, certainly, these are -- these are the
 13 figures that we have ascertained from the Commission in
 14 terms of 2004, which we actually worked on this campaign
 15 which was also an election year, compared to 2006. And
 16 the numbers are -- are, you know, you know, kind of --
 17 of ebb and flow a little bit, but historically the
 18 numbers are up since the Act was inception back in 1998.
 19 MS. BROADBENT: As we get back to Web traffic
 20 from the site, we measured from January 1st to the end
 21 of the election. And visitors to the Clean Elections'
 22 Website we had over 1.4 million hits to the Website over
 23 that time. And of those numbers, there were 43,000
 24 unique visitors.
 25 COMMISSIONER SCARAMAZZO: What is a unique

Page 67

1 campaign. Sahana Jayaraman works on the public
 2 relations team. Eric Kardesh back in the white shirt
 3 actually works in our PR group as well. Jacqueline
 4 Hahey is also in PR. And Allison Miles works in the
 5 account management side with Jenna on all advertising
 6 and all online media activity.
 7 We thank you for your time as we kind of
 8 present to you a recap of our 2006 education campaign on
 9 behalf of the Commission. Commissioner Kunasek and
 10 Commissioner Parker were not here last November when we
 11 actually presented this program, so we actually do have
 12 hard copies of our recap and results this far which we
 13 will hand out. But what we want to do is kind of take
 14 you through our campaign and also the recap during
 15 today's meeting.
 16 Just as a quick recap of the evolution of our
 17 partnership, the Commission actually sent out RFPs to
 18 the top marketing firms in the state back in 2004. Off
 19 Madison Ave. was selected one as one of the agencies
 20 selected to participate in the RFP. And at that point
 21 in time we were selected as the agency of record for the
 22 Commission to really to help build public awareness and
 23 help educate Arizona citizens about the Clean Election
 24 Act.
 25 At that point in time when we were selected as

Page 69

1 visitor?
 2 MS. BROADBENT: A unique visitor is someone who
 3 is coming for the first time. So it shows of those 1.4
 4 million, there are a lot of unique visitors that come to
 5 the Website.
 6 COMMISSIONER PARKER: 43,000 who did it once
 7 and the rest was multiple.
 8 COMMISSIONER KUNASEK: So the actual number is
 9 1.4 million minus the 43,000?
 10 MS. BROADBENT: For individuals, yes.
 11 We actually put in place a search market
 12 campaign throughout the year, it ran from April 3rd to
 13 again the end of the election.
 14 Paperclip advertising as you'll see there on
 15 the top, right-hand corner, as visitors are searching
 16 for terms, a text ad will appear. And we were able to
 17 garner about -- just under 11,000 visitors to your
 18 Website through those efforts.
 19 The top searched terms throughout the year is:
 20 Arizona elections, Arizona voting, and Arizona election
 21 2006.
 22 MR. WENDEL: Certainly our -- our PR component
 23 is really the foundation for our education campaign.
 24 And what we want to do is really kind of support all the
 25 Clean Elections' initiatives by developing targeted key

<p style="text-align: right;">Page 70</p> <p>1 messages to our various audiences and using the media 2 really as a conduit to help educate our audiences about 3 the Act, about Clean Elections, and certainly about the 4 process that was going on during both the primary and 5 the general election.</p> <p>6 What we have here is certainly in the public 7 relation's industry or marketing communication industry, 8 often times a methodology that's employed as someone 9 will look at an article, maybe it's a half page article 10 in the Republic and say, okay, well a half page ad would 11 cost, let's say, \$10,000, so this article is \$10,000.</p> <p>12 It's not an exact science and it's really not 13 the philosophy that Off Madison Ave. adopts. We don't 14 believe that every click -- as it's referred to -- is 15 created equal. So we don't follow that standard in 16 regard to an ad value approach.</p> <p>17 What we look at is certainly the message that 18 we've developed in conjunction with the Commission. Are 19 these messages being effectively communicated either in 20 print, radio, TV, et cetera? Is it accurate? How does 21 it position Clean Election and the Act? Is the article 22 both balanced and objective?</p> <p>23 We had the fortunate pleasure over the last 24 three years working very closely with Chair Busching, 25 Todd, Mike Becker, and certainly the previous regime in,</p>	<p style="text-align: right;">Page 71</p> <p>1 you know, setting up those mini interviews and 2 facilitating the meetings and really, you know, kind of 3 working with them to make sure that whatever the topic 4 is, they were able to get across, you know, the key 5 points on behalf of Clean Elections.</p> <p>6 Some of these highlights -- can we go back real 7 quickly?</p> <p>8 You will have in the handouts that we have -- 9 no, the previous.</p> <p>10 The points that we have were certainly: 11 Awareness building messages, behavioral and 12 comprehension, the fact that Clean Elections allows more 13 people to become involved in the political process and 14 allows more people access to their elected officials.</p> <p>15 These are kind of the matrix that we use when 16 we are looking at secured media coverage that is 17 developed during the PR process. And some of the 18 highlights that include here on the next slide, 19 certainly working with all the local and statewide media 20 is something we do daily on behalf of the Commission.</p> <p>21 Because Clean Elections is really seen as a 22 national model for campaign finance reform, there have 23 been numerous opportunities were we installed these op 24 ads on behalf of the Commission and/or setting up an 25 interview with one of the spokespeople. We've had</p>
<p style="text-align: right;">Page 72</p> <p>1 articles appear in USA Today, New York Times, Chair 2 Busching has been interviewed for Fox News National and 3 NPR.</p> <p>4 And the other thing that's also been very 5 critical this year as social media has really become 6 more poplar in today's society, how can we leverage and 7 utilize blogs as a way to communicate the Clean 8 Elections Commission message?</p> <p>9 There was at lot of times, you know, Main 10 certainly is at the forefront of Clean Elections as 11 well, being able to solicit copying op ads to their 12 blog, and actually writing pieces kind of -- as Mike 13 Becker likes to refer to it, we would see op ads coming 14 out of the Goldwater Institute. As my term we could 15 kind of write an opposing view point in response to what 16 was coming out of the Goldwater Institute. Or in the 17 event they were writing or one of the other 18 organizations was writing something that was pro-Clean 19 Elections, we would definitely kind of want to piggyback 20 on that as well.</p> <p>21 So -- sorry about that.</p> <p>22 So, our 2006 campaign really consisted of 23 following the initiatives: The \$5 campaign, the 24 candidate statement pamphlets, both primary and general 25 elections, the debates, and issue management which we'll</p>	<p style="text-align: right;">Page 73</p> <p>1 get into at the later part of the presentation.</p> <p>2 MS. BROADBENT: We want to take you through a 3 couple things that we produced for you. The \$5 payment, 4 we produced radio. We created 15-second and 30-second 5 spots in both English and Spanish that played throughout 6 the year on a schedule in Phoenix, Tucson, and then tier 7 two and tier three markets.</p> <p>8 When we refer to tier two and tier three, it's 9 outlying communities. It's rural outreach.</p> <p>10 MR. WENDEL: I would like to add which we'll 11 get to. Our PR efforts, you know, certainly with 12 Phoenix, Tucson, Flagstaff, and even Yuma having, you 13 know, major daily newspapers there, a high concentration 14 of high efficacy voters, all those cities, you know, 15 have educational institutions which we definitely wanted 16 to piggyback. But the tier two and three market, in 17 2006 campaign, we wanted to have a grass roots strategy 18 and approach on: How do we get to the outlying market? 19 How do we help spread the message of Clean Elections? 20 Get more candidates to participate in the process, 21 attend the debates, and, you know, potentially run for 22 office using Clean Elections as a vehicle.</p> <p>23 MS. BROADBENT: So, we'll play the spot for 24 you.</p> <p>25 I apologize it's little bit of --</p>

Page 74

1 COMMISSIONER KUNASEK: Now, your heading there
 2 says \$5 campaign. Those are -- are \$5 radio spots?
 3 MS. BROADBENT: I'm sorry?
 4 COMMISSIONER KUNASEK: The \$5 campaign, the
 5 heading there, are those spots that you're referring to
 6 were all just a \$5 radio spots based on the buy?
 7 MS. BROADBENT: No, this was to raise the \$5
 8 donation for the candidate.
 9 COMMISSIONER KUNASEK: Because if you buy radio
 10 ads you can get them for \$5.
 11 MS. BROADBENT: Not that cheap.
 12 (Whereupon an ad was played by the Off Madison
 13 Ave.)
 14 MS. BROADBENT: That was the quick 15-minute
 15 [sic] spot that we showed you.
 16 These bumper stickers I'm sure will look
 17 familiar to you. I'm sure you've seen them. These were
 18 available to the candidates to distribute to the people
 19 who contributed the \$5 donation.
 20 And in the next line we have the television
 21 commercial that we produced. Again, to support the \$5
 22 donations.
 23 (Whereupon an ad was played by the Off Madison
 24 Ave.)
 25 MR. LANG: The ad on TV wasn't that dark,

Page 76

1 MS. BROADBENT: We also had public relations
 2 efforts on the \$5 campaign. We had placement in both
 3 the Business Journal and Adweek.com.
 4 Another initiative that we had to support was
 5 the candidate's statement pamphlets for both the primary
 6 and general elections. We ran these print ads in the
 7 newspaper, the Arizona Republic, and just to let people
 8 know about the pamphlets that would be arriving in their
 9 mail.
 10 We also produced a video spot. Which I will
 11 play.
 12 (Whereupon an ad was played by the Off Madison
 13 Ave.)
 14 MS. BROADBENT: And also public relations
 15 efforts as well.
 16 MR. WENDEL: We just use PR to support all or
 17 other marketing and advertising initiatives. So, the
 18 past year, the good part compared to 2004, we didn't
 19 really have a lot of reactive or issue management as it
 20 pertained to the candidate statement pamphlets.
 21 I recall from 2004, there was were at lot of
 22 candidates that were filing complaints, based on certain
 23 submissions that were sent in perhaps from their
 24 opponents. And for those of us that can remember 2004,
 25 it just seemed like so many complaints week in and week

Page 75

1 correct?
 2 MS. BROADBENT: No, that's just the way it's
 3 showing up.
 4 If you or anyone wants copies, please feel free
 5 to contact us and we'll send them to you.
 6 Another advertising mission we had is we
 7 produced Web banners. Those ran from July 24th to
 8 August 24th of this year on such venues as: AOL,
 9 Google, Yahoo, Clear Channel, AZ Central, La Vos, and
 10 Baja Del Sol. So we had both outreaching to all
 11 different voters and we also produced both English and
 12 Spanish versions of these banners.
 13 The results were we had over 5,153 visitors to
 14 the CCEC Website. And interesting to note, the Hispanic
 15 banners we produced were the highest performing by quite
 16 a bite.
 17 COMMISSIONER PARKER: Can you target, like, the
 18 Yahoo and AOL to just people coming out of Arizona?
 19 MS. BROADBENT: All of those campaigns were
 20 targeted were directed to people in Arizona.
 21 MR. WENDEL: It's called geo-targeting and we
 22 were able to really kind of narrowly define the set as
 23 we where -- we wanted the words to appear. You can
 24 check by the IP address where you're coming from.
 25 COMMISSIONER PARKER: Okay. Thanks.

Page 77

1 out about candidate campaign pamphlets. But this year
 2 we were kind of armed and ready to tackle any negative
 3 feedback regarding the content. But this year, the
 4 issue that did arise, Mike Becker was able to handle
 5 quite easily and on his own.
 6 MS. JAYARAMAN: Another component of our
 7 education campaign was focused on the debates. And we
 8 supported the Clean Elections' candidate debates through
 9 various grass roots efforts throughout the general --
 10 the primary and general session. And we used a lot of
 11 paid and earned media to get the word out, generate
 12 awareness, and promote attendance.
 13 What you see here is the print ads that we ran
 14 on a biweekly basis during the primary and general
 15 election really just outlining the schedule of the
 16 debates. From a public relations' perspective, we
 17 distributed 50 unique press releases for each of the
 18 debates. We were able to secure 31 articles regarding
 19 the debates and target news outlets, including statewide
 20 publications as well as community papers such as a Yuma
 21 Sun, and as you can see there the Green Valley News.
 22 We staffed 12 debates held in rural parts of
 23 Arizona, including Bullhead City, Green Valley,
 24 Prescott, and Oro Valley.
 25 And flip to the next slide.

Page 78

1 At the debates, we provided the attendees with
2 surveys. And the results are based on a five-point
3 scale, and when you receive your presentation bound you
4 can look at the detailed explanations a little bit
5 further.

6 But what I wanted to highlight here was 19
7 percent of the people who took the survey said they
8 learned about the debate from a newspaper which just
9 shows that our advertising and public relations' efforts
10 were effective.

11 MS. BROADBENT: Something we thought was
12 interesting for this year as well, CCEC partnered with
13 KAET to record the debates and then video downloads were
14 available on the CCEC Website. We had 8,897 visitors
15 and they downloaded over 31,000 debate clips from the
16 Website, which we thought was excellent. That showed
17 most visitors were downloading debates to watch. The
18 average time spent viewing each clip was about 11
19 minutes and 13 seconds, which for an online standard,
20 people watching video online, that's very good. So it
21 shows people were engaged.

22 MR. WENDEL: This was a new endeavor on behalf
23 of the Commission and KAET. And certainly for the next
24 election I think the results have been garnered and I
25 would think both organizations would want to partner up

Page 79

1 again to film the debates.

2 As Sahana mentioned, the OMA staff actually
3 attended numerous debates statewide and actually worked
4 with KAET on site. And Commission staff would more than
5 likely handle debates here in Maricopa County, because
6 oftentimes there were numerous debates going on on the
7 same night, so we really needed to have an
8 all-hands-on-deck approach.

9 Our last part here certainly pertains to Clean
10 Elections and Commission. Since the Act's inception in
11 1998, there have been a lot of supporters of the Act and
12 there certainly have been nay sayers. In our history of
13 working with Clean Elections, there's been a number of
14 enforcement issues that have certainly arisen. A lot of
15 those topics up there, you are very familiar with.
16 We've sat through numerous Commission meetings
17 discussing these topics.

18 And what's really been beneficial to both the
19 account team and to the Commission is the crisis and
20 communications protocol that we have developed. And
21 it's a topic -- a document that really kind of outlines
22 potential issues, scenarios, key messages, how are we
23 going to handle certain topics before it becomes a
24 three-alarm fire.

25 And as I mentioned earlier, we worked very

Page 80

1 closely with each of the Commission spokespeople, Chair
2 Busching and Todd Lang on the issue. And before they
3 did any interviews, we actually provide them with a
4 media profiled based on the reporter, kind of outlet,
5 you know, worked very, very closely with the Capital
6 Times, Republic, KAET, et cetera.

7 There have been numerous times where there's
8 been topics where we're dealing with reporters out of
9 state and there have been issues here that have received
10 national coverage as it pertained to David Burnell Smith
11 with New York Times and Forbes.

12 And lastly here, the leadership changes. As
13 mentioned earlier, we had a very good relationship with
14 Chair Busching serving as our spokesperson during some
15 internal changes that have gone on here and also with
16 the appointment of the new Executive Director. This is
17 a featured story that appeared in the Republic shortly
18 after his appointment. He has also been a great
19 spokesperson and also a real supporter of the
20 initiatives the agency has embarked on on behalf of the
21 CCEC.

22 So this actually really kind of concludes our
23 snapshot as the 2006 program recap. We do have handouts
24 to hand out to each of the Commissioners.

25 In terms of our next steps, we'll be working

Page 81

1 with Todd and Mike as 2007 approaches. We will work
2 with BRC to administer another survey to measure
3 awareness and attitudes. This is something that's done
4 each year -- or, I'm sorry, after each election. So
5 we're able to compare the results from the 2004
6 election.

7 COMMISSIONER PARKER: Who do you survey?

8 MR. WENDEL: Excuse me?

9 COMMISSIONER PARKER: Who do you survey?

10 MR. WENDEL: They actually survey -- they'll do
11 a sample of the statewide Arizona voters that actually
12 fall within different criteria, and both rural and urban
13 places, male, female. So it's a statistically
14 significant sample. I believe there's about 350 people
15 that will participate in this survey historically and
16 it's --

17 COMMISSIONER PARKER: Sorry.

18 MR. WENDEL: -- telephone interviews and
19 online.

20 COMMISSIONER PARKER: Okay. Thanks.

21 MR. WENDEL: And then from there, we'll
22 actually embark on our 2007 planning, which we've
23 discussed preliminary with both Todd and Mike and likely
24 will be presenting to you the '07 plan and perhaps as
25 early as January.

Page 82

1 So if there are any questions for anyone on the
 2 accounting, we will certainly be more than happy to
 3 answer your questions.
 4 Yes?
 5 COMMISSIONER JOLLEY: I just have a question.
 6 On the survey, do you also target age
 7 group?
 8 MR. WENDEL: Yes.
 9 COMMISSIONER JOLLEY: Okay. Because that's
 10 important to know.
 11 MR. WENDEL: And the good part about it is
 12 because Commission outsources to BRC, Off Madison is not
 13 doing it. So BRC is doing a completely independent
 14 study. And because they have done the previous two
 15 studies, all of the methodologies remain consistent so
 16 it can be compared from study over study.
 17 COMMISSIONER PARKER: Who is BRC?
 18 MR. WENDEL: It -- I'm sorry. It's an acronym
 19 for Behavioral Research Center. They're actually --
 20 COMMISSIONER PARKER: Is that Earl Deberg's
 21 group?
 22 MR. WENDEL: I'm sorry?
 23 COMMISSIONER PARKER: Is that Earl Deberg's
 24 group?
 25 MR. WENDEL: I'm not familiar with that name.

Page 84

1 I guess any feedback that you guys have, we
 2 would certainly be more than happy to hear, both
 3 positive and/or negative, you know, in terms of just the
 4 education program as a whole, maybe things you've seen
 5 in the market where you live, in terms of articles, the
 6 advertising online, initiatives, you know, do you feel
 7 that, you know, as our partner are we helping to kind
 8 of, like, get your message out and also from a
 9 pro-active standpoint in there.
 10 Also during the history of the relationship,
 11 there's been a number of reactive things we need to
 12 quickly, you know, adapt and prepare the Commission to
 13 address certain issues when the heat gets turned up.
 14 MS. BROADBENT: If there's any questions in the
 15 future or need anything, feel free to contact us. Thank
 16 you.
 17 CHAIRPERSON BUSCHING: Thank you.
 18 COMMISSIONER SCARAMAZZO: Thank you.
 19 COMMISSIONER JOLLEY: Thank you. Good
 20 presentation.
 21 CHAIRPERSON BUSCHING: Mr. Lang, anything else
 22 on that agenda item?
 23 MR. LANG: I have nothing else.
 24 CHAIRPERSON BUSCHING: Okay. Then we're at
 25 Item IX, call for public comment. This is the time for

Page 83

1 COMMISSIONER KUNASEK: I think it is.
 2 MR. WENDEL: It's one of the largest groups
 3 here in the valley. They're very well-known.
 4 COMMISSIONER PARKER: He used to be, but is he
 5 not now?
 6 MR. LANG: I thought he was with ASU. He's
 7 not?
 8 COMMISSIONER KUNASEK: Yeah, he was. I think
 9 he started it as part of some graduate project while he
 10 was at ASU.
 11 MR. LANG: I'll find out for sure.
 12 COMMISSIONER KUNASEK: I don't know if he's
 13 still affiliated with ASU or not.
 14 CHAIRPERSON BUSCHING: Any other questions of
 15 Mr. Wendel?
 16 Mr. Wendel, do you seek any input from
 17 us?
 18 MR. WENDEL: I -- we can either discuss that
 19 now -- I think the way we have discussed it with Mike,
 20 we'll be kind of, like, working with Mike and Todd to
 21 kind of, you know, get you the input in terms of how the
 22 direction, where things want to go.
 23 I know that certainly for 2007, really the
 24 focus of our work will probably be more on, you know,
 25 changes to the Act that will be moving forward.

Page 85

1 consideration and discussion of comments and complaints
 2 from the public. Action taken as a result of public
 3 comment will be limited to directing staff to study the
 4 matter or rescheduling the matter for further
 5 consideration and decision at a later date or responding
 6 to criticism.
 7 Is there anyone from the public that wishes to
 8 speak?
 9 If not, we'll move to Item X. Is there a
 10 motion?
 11 COMMISSIONER KUNASEK: So moved.
 12 COMMISSIONER SCARAMAZZO: Second.
 13 CHAIRPERSON BUSCHING: It's been moved by
 14 Commissioner Kunasek and seconded by Commissioner
 15 Scaramazzo that we adjourn.
 16 All in favor, say "aye."
 17 (Chorus of ayes.)
 18 CHAIRPERSON BUSCHING: Opposed, nay?
 19 Chair votes aye. Motion carries.
 20 This meeting is adjourned.
 21
 22
 23 (Whereupon the proceeding concludes at 11:40
 24 a.m.)
 25

Page 86

C E R T I F I C A T E

I, Angela Furniss Miller, Certified Reporter,
do hereby certify that the foregoing pages numbered 1
through 85, inclusive, constitute a full and accurate
printed record of my stenographic notes taken at said
time and place, all done to the best of my skill and
ability.

DATED, at Phoenix, this 20th day of December,
2006.

Angela Furniss Miller, RPR
Certified Reporter (AZ50127)